

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

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| UNITED STATES OF AMERICA, Plaintiff, v. \$20,443.00 IN US CURRENCY Defendant in rem. | CIVIL ACTION. 4:11-cv-4093 |
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**ANSWER TO VERIFIED COMPLAINT FOR FORFEITURE IN REM
OF CLAIMANT KEVIN HARTSHORN on behalf of
GILL FAMILY CORNERSTONE TRUST**

Claimant Kevin Hartshorn, Executive Trustee for the Gill Family Cornerstone Trust (hereinafter “Claimant”), for his Answer to Plaintiff’s Verified Complaint for Forfeiture *In Rem* (“Complaint”) of \$20,443.00 (“the property”), states as follows.

First Defense To Each Paragraph of the Complaint

1. Admit, except Claimant denies the property should be forfeited in this action.
2. Admit.
3. Admit, except Claimant denies the property should be forfeited in this action.

4. Admit, except Claimant denies the property should be forfeited in this action.
5. Deny.
6. Deny.
7. Deny.
8. Claimant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8, which has the effect of a denial pursuant to Rule 8(b)(5), Federal Rules of Civil Procedure.
9. Deny.
10. Claimant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10, which has the effect of a denial pursuant to Rule 8(b)(5), Federal Rules of Civil Procedure.
11. Admit, except to the extent that Hartshorn lacks knowledge or information sufficient to form a belief as to what Mr. Hernandez-Alcazar may have said, which has the effect of a denial that allegation pursuant to Rule 8(b)(5), Federal Rules of Civil Procedure, and further denies that \$5,000.00 in cash was discovered on Mr. Hartshorn's person solely as a result of a patdown by a CBP officer.

12. Claimant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12, which has the effect of a denial pursuant to Rule 8(b)(5), Federal Rules of Civil Procedure.

13. Admit relief was requested but deny relief is appropriate.

Second Defense

The property sought to be forfeited belongs to an innocent owner, the Gill Family Cornerstone Trust, who is entitled to return of the seized proceeds on the grounds that forfeiture of its property is not justified under the circumstances of this case.

Third Defense

Forfeiture of all of the property constitutes an excessive fine in violation of the Eighth Amendment to the United States Constitution.

WHEREFORE, Claimant prays that the Complaint *In Rem* for Forfeiture be dismissed, that none of the seized property be forfeited, that all of the seized property be returned to the Claimant, and that this Court award such further relief as it deems just in the circumstances.

JURY DEMAND

Pursuant to Rule 38, Federal Rules of Civil Procedure, Claimants demand a jury trial on all issues so triable.

Dated: February 21, 2012

RESPECTFULLY SUBMITTED,

/s/ John J.E. Markham, II

John J.E. Markham, II

Attorney in Charge

(Admission *pro hac vice* pending)

(MA BBO 638579)

MARKHAM & READ

One Commercial Wharf West

Boston, MA 02110

(617) 523-6329

Attorneys for Claimant

VERIFICATION and DECLARATION

The Claimant named below declares under penalty of perjury that the foregoing facts stated in this Answer are true to the best of his knowledge, information, and belief.

I, Kevin Hartshorn, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 21st day of February, 2012, in Orem, Utah.

KEVIN HARTSHORN
Individually and as Trustee of
GILL FAMILY CORNERSTONE
TRUST



CERTIFICATE OF SERVICE

I, John J.E. Markham, II, certify that on February 21, 2012, I served the foregoing document and any attachments on counsel of record by electronic mail and ECF notice and served a copy on any unrepresented parties via first class mail, postage prepaid.

Dated: February 21, 2012

/s/ John J.E. Markham, II
John J.E. Markham, II